

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DANA KLIPPEL)	
)	Federal Court No. _____
)	
Plaintiff,)	Circuit Court No. 2017-M3-000125
)	
v.)	NOTICE OF REMOVAL
)	(28 U.S.C. § 1446)
CUSTOM CANDY DESIGN, GARY S.)	
SHIFRIN and MARILYN SHIFRIN,)	
)	
Defendants.)	

**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

The Defendants, CUSTOM CANDY DESIGN, GARY SHIFRIN and MARILYN SHIFRIN (“Defendants”), by and through their attorneys, hereby remove this cause of action from the Circuit Court of Cook County, Illinois, Third Municipal District, to this United States District Court for the Northern District of Illinois, Eastern Division. Removal of this action is proper under 28 U.S.C. §§ 1441(a) and 1446(a) and (b), for the reasons set forth below. Defendants respectfully state that the grounds for removal to this Court are as follows:

RELEVANT PROCEDURAL HISTORY

1. On January 6, 2017, Plaintiff, Dana Klippel (“Plaintiff”), filed a civil action against Defendants captioned DANA KLIPPEL v. GARY S. SHIFRIN and MARILYN M. SHIFRIN, Individually and d/b/a/ CUSTOM CANDY DESIGN, Case No. 2017-M3-000125, in the Circuit Court of Cook County, Illinois, Third Municipal District. A copy of the Complaint is attached hereto as Exhibit A.

2. Defendants were served with the Summons and Complaint on January 20, 2017. The responsive pleading is due on before 9:00 a.m. on January 30, 2017. However, after the removal of this action, the responsive pleading will be due on February 10, 2017.

BASIS FOR REMOVAL AND JURISDICTION

3. Pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) and (b), Defendants remove this action to the United States District Court for the Northern District of Illinois, Eastern Division, which is the judicial district in which the action is pending.

4. Under 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States” This Court has original jurisdiction over “federal question” cases, *i.e.*, those cases “arising under the Constitution, laws, or treaties of the United States.” 28 U.S.C. § 1331.

5. In her Complaint, Plaintiff, a former employee of Defendant Custom Candy Design, alleges that Defendants violated the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*, by not paying her overtime compensation. (See **Ex. A**, ¶¶ 24-33) Removal of this action is, therefore, proper under 28 U.S.C. § 1441(a) because this is a civil action brought in state court over which the federal district courts would have original jurisdiction had the action been brought in federal court.

6. Plaintiff further alleges that Defendants’ actions violated the Illinois Wage Payment and Collection Act, 820 ILCS § 115/3 *et seq.*, and Illinois Minimum Wage Law, 820 ILCS § 105/1 *et seq.* Therefore, the United States District Court may also exercise supplemental jurisdiction pursuant to 28 U.S.C. § 1367 because Plaintiff’s state law claims are so related to her

federal cause of action that they form part of the same case or controversy under Article III of the United States Constitution.

7. This Notice of Removal is timely under 28 U.S.C. § 1446(a) and (b) because it is filed within thirty (30) days after receipt by Defendants of the Complaint and Summons, which were received by Defendants on January 20, 2017.

8. Defendants have also filed this Notice of Removal in the proper Division of this Court under 28 U.S.C. § 93(a)(1) and 28 U.S.C. § 1441(a), as Cook County, Illinois is within the venue of the U.S. District Court for the Northern District of Illinois, Eastern Division. All of the parties reside or do business within the Eastern Division of the Northern District of Illinois.

9. Defendants' counsel will serve a written Notice of Filing of the Notice of Removal on Plaintiff's counsel and a written Notice of Removal to the Circuit Court, as required by 28 U.S.C. § 1446(d), promptly after the filing of this Notice of Removal.

10. All Defendants have consented to the removal of this case.

RESERVATION OF RIGHTS/DENIAL OF LIABILITY

11. Nothing in this Notice of Removal is intended or should be construed as any type of express or implied admission by Defendants of any fact alleged by Plaintiff, of the validity or merits of any of Plaintiff's allegations, or of any liability for the same, each of which are hereby expressly denied, or as any type of express or implied waiver or limitation of any of Defendants' rights, claims, remedies, and defenses in connection with this action, all of which are hereby expressly reserved. Further, by filing this Notice of Removal, Defendants do not intend to waive, and hereby reserves, any objection as to service, personal jurisdiction, and all other procedural and substantive defenses which are available to them.

WHEREFORE, Defendants respectfully request that the above-captioned action now pending in Circuit Court of Cook County, Illinois be removed to the United States District Court for the Northern District of Illinois, Eastern Division.

Dated: January 26, 2017

Respectfully Submitted,

CUSTOM CANDY DESIGN, GARY
SHIFRIN and MARILYN SHIFRIN

By: /s/Matthew P. Kellam
One of the Attorneys for Defendants

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CERTIFICATE OF SERVICE

Matthew P. Kellam, an attorney, hereby certifies that he caused the foregoing **Notice of Removal** in the above-captioned matter to be served on the parties below, via e-mail and U.S. Mail, on this 26th day of January, 2017, addressed to:

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/s/Matthew P. Kellam